

# **Independent Expert Panel**

## **Appeal by Christopher Pincher MP**

Presented to the House of Commons  
pursuant to House of Commons Standing Order No 150A

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## The Independent Expert Panel

The Independent Expert Panel was established by resolution of the House of Commons on 23 June 2020. The Panel:

- Hears appeals against decisions made by the Parliamentary Commissioner for Standards (the Commissioner), and considers referrals from the Commissioner and determines sanctions in cases involving an allegation against an MP of a breach of Parliament's Sexual Misconduct Policy or the Bullying and Harassment policy, under the Independent Complaints and Grievance Scheme; and
- Hears appeals against decisions by the Committee on Standards in cases involving an allegation against an MP of a breach of the Code of Conduct for Members of Parliament.

### Current membership

Mrs Lisa Ball  
Monica Daley  
Mrs Johanna Higgins  
Sir Stephen Irwin (Chair)  
Professor Clare McGlynn KC  
Miss Dale Simon  
Sir Peter Thornton KC  
Dr Matthew Vickers

### Powers

The Panel's powers are set out in House of Commons Standing Orders Nos 150A to 150D. These are available on the internet via [www.parliament.uk](http://www.parliament.uk).

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## Report by the Chair of the Panel

- 1.1 The Independent Expert Panel (the Panel) was established by resolution of the House of Commons on 23 June 2020. The Panel hears any appeals from decisions by the Parliamentary Commissioner for Standards (the Commissioner) on complaints against a MP, or former MP, under the Independent Complaints and Grievance Scheme (ICGS); and considers referrals from the Commissioner to determine sanctions where they have upheld a complaint in serious cases. These are cases involving an allegation of a breach of the Bullying and Harassment Policy for UK Parliament, or the Sexual Misconduct Policy for UK Parliament. It also hears appeals against decisions by the Committee on Standards from MPs who have been found to have breached the Code of Conduct for MPs.
- 1.2 The Panel is guided by the principles of natural justice, fairness for all, transparency and proportionality. We are rigorously independent, impartial and objective, acting without any political input or influence.
- 1.3 This is a report of the decision of the Panel on an appeal by Christopher Pincher MP against a decision by the Committee on Standards to recommend that he be suspended from the House for eight weeks for breaching paragraph 17 of the 2019 edition of the Code of Conduct for MPs.<sup>1</sup> The Committee concluded that Mr Pincher had “groped” two people in the bar following an event at the Carlton Club on the evening of 29 June 2022, and this was behaviour that had caused significant damage to the reputation of the integrity of the House as a whole, and its Members.
- 1.4 Mr Pincher submitted an appeal against the sanction on the grounds that it was disproportionate (Appendix). He did not appeal the decision that he had breached the Code of Conduct.
- 1.5 I appointed the following sub-panel to consider the appeal:
  - Ms Monica Daley;
  - Mrs Johanna Higgins; and

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<sup>1</sup> Committee on Standards, Twelfth Report of Session 2022–23, *Christopher Pincher* (HC 1653), 6 July 2023.

- Sir Stephen Irwin (chair of the sub-panel).

1.6 For the reasons set out in its decision, section 2 of this report, the sub-panel dismissed Mr Pincher's appeal, concluding:

*We consider the Committee approached this task properly, with the correct considerations in mind, and applying its members' experience of the House of Commons, fairness and obvious reason to the facts of the case. We consider that the appellant's arguments are misconceived or erroneous. The sanction is far from being arbitrary or disproportionate.*

1.7 **The Committee's recommended sanction is upheld.**

1.8 I make this report to the House pursuant to Standing Order No. 150A(5)(d). All information relating to the case not published in this report or by the Committee remains confidential.

**Rt Hon Sir Stephen Irwin**

**4 September 2023**

# Decision of the sub-panel

## Introduction

- 2.1 This is an appeal by Mr Pincher (the appellant) against the sanction of 8 weeks suspension from the service of the House, imposed upon him by the Committee on Standards (the Committee) in its decision published on 6 July 2023.<sup>2</sup> The decision included the finding that he had “caused significant damage to the reputation and integrity of the House as a whole, and its Members”: see [paragraph 64].
- 2.2 It is important to keep in mind throughout that the appeal is confined to the sanction imposed. Some of the language used by the appellant might give the impression that the appeal is wider, but that is not so. We summarise the grounds below.
- 2.3 In order to protect the confidentiality of those involved in the relevant events, and in the light of the nature of those events, the Committee decided not to publish the memorandum of the Parliamentary Commissioner for Standards (the Commissioner). It also anonymised the complainant and the witnesses, one of the latter being the victim of the second episode giving rise to the findings. We have adopted the same approach. We have had access to the memorandum and to the relevant papers.
- 2.4 The appellant made his position clear to the Committee in writing. He informed the Committee that he did not intend to give oral evidence. He has taken a similar approach to this appeal, making full written submissions (Appendix), but not seeking to address us orally.
- 2.5 Following the decision of the Committee published on 6 July, the appellant lodged grounds of appeal in a letter dated 20 July, received by the Independent Expert Panel (the Panel) Secretariat on that day. The sub-panel was appointed, read and considered the papers individually, and then met virtually to consider the appeal on Wednesday 2 August, before members began periods of annual leave. Our substantive decision was taken on that day, and then drafting proceeded, with drafts being circulated

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<sup>2</sup> Committee on Standards, Twelfth Report of Session 2022–23, *Christopher Pincher* (HC 1653), 6 July 2023.

and approved as members were available.

- 2.6 Since the report of the Committee is in the public domain, and since there is no fresh evidence advanced in the case, we are able to take the facts as found from the Committee report. We are also able to make reference to the relevant passages and paragraphs in that report, without the need to repeat and rehearse those facts, or the reasons of the Committee. We therefore make reference to the relevant passages in the report without extensive quotation. This decision should be read alongside the Committee report.
- 2.7 Given the timetable, and the advent of annual leave, the sub-panel chose not to follow our normal two-stage process (considering as a discrete matter whether there was any arguable ground before moving to the substance of the case), but rather we moved immediately to the substance of the appeal and considered the merits.

### **Summary of the facts**

- 2.8 In very short summary, the appellant was a speaker at an event in the Carlton Club, very close to Parliament, on the evening of 29 June 2022. After the event ended, the appellant left the club and went elsewhere.
- 2.9 Having consumed alcohol over the course of the evening, he returned to the Carlton Club probably around 10pm. Thereafter, he drank more alcohol. In the first episode complained of, in the bar area of the club, the appellant approached a young man employed in the House of Lords. The appellant grabbed his forearm, holding it for longer than appropriate, leading the complainant to remove the appellant's hand from his arm. Then the appellant went on to stroke the complainant's neck: again the complainant removed the appellant's hand from his neck. At that point the appellant moved to a different part of the bar area, but then returned and squeezed the complainant's bottom. The complainant described the episode as traumatic and as having impacted his wellbeing.
- 2.10 The appellant has conceded that he was very drunk on that evening. His account is that he was so drunk that he cannot remember anything of what happened. He is quite unable to contradict the accounts of the complainant or other witnesses.



- 2.11 At some point following this first episode that evening, according to the evidence presented to the Commissioner, the appellant was approached by a fellow MP who was a friend, and who was concerned at his conduct and his degree of intoxication. He was advised firmly to go home. He declined. Thereafter, the second episode arose. The victim of the second assault is a civil servant and a member of the club. He had not met the appellant before. He was introduced to the appellant, and spoke to him in a group of others. Following a break in the conversation, the appellant left the group, moved away and then returned. He touched the victim's bottom, before moving his hand round to touch and then squeeze the victim's testicles.
- 2.12 There was no consent to any of these actions by the appellant, and no basis for a belief in consent. The events were fully corroborated, and the appellant is unable to gainsay the evidence. The acts were clearly sexual, from their nature. If they were prosecuted in a criminal court, each episode would be framed as a sexual assault, with potential sentences of imprisonment if proved.
- 2.13 We pause to note that this case was well investigated, and to observe that the report of the Commissioner is clear and authoritative.

### **The reasoning and conclusions of the Committee: analysis of the grounds of appeal**

- 2.14 We have read the underlying documents and the findings of the Committee with care. In our view the approach of the Committee was impeccable: as to the background and facts [8-14]; as to the conclusion of the Commissioner [23]; a fuller statement and analysis of the facts [31-45]. We agree and endorse the Committee's conclusions in [46]:

*46. Having reviewed all the evidence, including the witness statements and accompanying exhibits (including contemporaneous messages), we conclude that this manifestly meets the evidential test of the balance of probabilities, and that Mr Pincher, whilst present at the Carlton Club on 29 and 30 June, groped the complainant and Witness 3 in the way they have described; and that this behaviour was unwanted, upsetting, and inappropriate.*

- 2.15 In [47], the Committee sets out the scope of the 2019 Code of Conduct (the Code):

*The Code applies to Members in all aspects of their public life. It does not seek to regulate what Members do in their purely private and personal lives.*<sup>3</sup>

- 2.16 It then set out the meaning of “public life” and how that applies to this case at [48-51]. We agree with its approach and its conclusions on this case. As part of his first ground of appeal the appellant makes a series of linked propositions, which he says go to the sanction imposed, but which – if they were right – might be taken as a criticism of the Committee’s approach to the meaning and ambit of public life in the test. The appellant states that “there are people whose private lives (friends, interests etc) sometimes conflate with their public life”, something which he suggests can be the case at Westminster. He suggests this is true of him, and that the conclusions of the Committee in [51] imply that “private relationships and friendships between people in public life or with public interests can only ever be public”.

- 2.17 We reject this argument from the appellant. The Committee does not make that implication. It was properly focussed on the role performed by the appellant on the evening in question:

*51. We reassert that the Code does ‘not seek to regulate what Members do in their purely private and personal lives’ but Mr Pincher’s participation in the Conservative Friends of Cyprus event was undoubtedly part of his public life. He had been invited to speak as a member of the Government and as a former minister in the Foreign Office. He re-entered the Carlton Club in the hope that he could re-join this same event, or at least interact with the attendees, including other Members of Parliament, parliamentary staff and civil servants. He attended the Carlton Club on the second occasion in that same public—not private and personal—capacity. His conduct therefore falls within the scope of the Code.*

- 2.18 In our view there can be no doubt that what happened that night was a matter of public behaviour and part of the public life of the appellant. Attendance at any event or any place where the public is present and where the attendance has been as a result of that public role will likely be found to be part of the Member’s public life, even if the formal public

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<sup>3</sup> House of Commons, *The Code of Conduct* (HC, 2017–19, 1882), 10 October 2019.

functions have been completed.

2.19 The Committee goes on to quote paragraph 17 of the 2019 Code:

*Members shall never undertake any action which would cause significant damage to the reputation and integrity of the House of Commons as a whole, or of its Members generally.*

2.20 It recites correctly that the “bar for breaching paragraph 17 of the Code is a high one” but added that it “believe[s] it has been met for four reasons”. Its reasons are set out in [56 to 59]. It concludes that the appellant’s conduct “caused significant damage to the reputation of the Government and the Prime Minister” but it was also “an egregious case of sexual misconduct” which led other Members to report the appellant to the Chief Whip and “led to extensive public commentary in the media regarding the reputation and integrity of all MPs [and] had a significant negative impact on the reputation of the whole House”.

2.21 In his second ground, the appellant argues that the thrust of the reputational damage was to him personally and to the Prime Minister, rather than to the House. This too he says should have been borne in mind on sanction. In our view this ground too is misconceived. Indeed, if taken at face value, it is simply naïve and unrealistic. Although the Government and the Prime Minister of the day were undoubtedly damaged reputationally by this affair, which precipitated the resignation of the Prime Minister, it is obvious in our view that this added to the current declined reputation of Members generally. The appellant suggests that the Committee (and we) should have regard to the thrust of the press coverage of these incidents in assessing where the public impact lay. The Committee was right to reject this argument, which would be impossible to carry through without a good deal of uncertainty and subjective judgement, and which is in any event misconceived on these facts.

2.22 It is worth adding that the test in paragraph 17 of the Code is prospective. It could be fulfilled by acts which did not in fact damage the reputation of the House, but were likely to do so. The distinction will usually be academic, but might be of importance, for example, in relation to events which were not widely known before the Report of the Committee on Standards.

- 2.23 In [58] of the Report, the Committee gave its third reason for rejecting the position of the appellant. It considered his conduct to be “especially grave” by reason of his senior position and senior background, which rendered witnesses fearful of his position and connections. It went on to say that “Whether Mr Pincher intended to abuse that position of power is immaterial. Objectively, he did.”
- 2.24 The appellant criticises this formulation, suggesting that “the Committee ought to have given consideration to the question of intent as well as to the question of whether or not objectively [an abuse of power] occurred in weighing its sanction”.
- 2.25 In our view the Committee did not misdirect itself. It is plain that the Committee was not saying that a deliberate abuse of power or authority could not constitute a more serious aggravating factor than an unconscious one. Clearly, in a case where that arose, a conscious abuse of power could be a more potent aggravation. However, our understanding of the Committee’s position here is that, even if the abuse of power was unconscious, that aggravation is still present. That must be particularly so where the Member concerned has become so intoxicated that he is unaware of how he is interacting with others, or indeed unaware of what he did. The appellant is not in a position to say how he behaved or how he was thinking on the night in question. It is possible that he was too drunk to form such a conscious plan, but he will have been completely accustomed to his position of authority and influence, and when drunk, is very likely to have taken his status and his influence for granted.
- 2.26 The fourth reason given by the Committee for rejecting the appellant’s arguments, to the extent that it did, is its support for the view of the Commissioner that the appellant’s acts risked “advancing a misplaced public perception that Members of Parliament do not have to abide by normal standards of behaviour and can commit acts of misconduct with impunity.”
- 2.27 In his fourth ground of appeal, the appellant states that he “never thought to act with impunity” and emphasises that he resigned promptly as a minister, apologised to all concerned, and has publicly indicated that he will not seek re-election at the next general election. He also emphasises that he has cooperated with the process of the Commissioner and the Committee.

2.28 We accept, as did the Committee, that the appellant has cooperated, resigned as a minister and will not stand at the next general election. All those matters should be, and were, taken into account in his favour as mitigating factors by the Committee. However, they do not run counter to the point made by the Commissioner and accepted and reiterated by the Committee. As the Panel said in its decisions on Margaret Ferrier's appeal:

*The public rightly expects all MPs to be of good character, to work hard on behalf of their constituents and to engage actively in the House. MPs are expected to be held to a high standard of conduct as well as honesty. When Members fall short of that conduct, the trust and confidence in Parliament and its Members are undermined.<sup>4</sup>*

2.29 There would indeed have been a sense in the public mind that Members operated with impunity, had there not been a significant sanction here. This is a matter where the conduct of the appellant infringed the autonomy of others and was harmful to them. It may be that the appellant has not grasped what might well have been the consequences of actions such as these in other workplace contexts. Members of this sub-panel have experience of similar conduct matters in police, nursing, midwifery and broader National Health Service discipline. Conduct of this kind in those contexts would have been likely to lead to disqualification or suspension for periods of years, often with compulsory DBS checks before any return to work would be possible.

2.30 In his peroration, the appellant points out that suspension for 8 weeks will deprive his constituents of the "very good standard of service" he has always given them. We understand that very well, as did the Committee, which is composed in large measure of Members who understand these matters better than any. No doubt that consideration acts to ensure that suspensions from Parliament are kept to a minimum in general, as well as in this case. The appellant also suggests that the approach of the Committee was "arbitrary", "unjustifiable" and was not proportionate.

2.31 The Committee was careful to identify the aggravating and mitigating factors which arise here. They were set out as follows:

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<sup>4</sup> Independent Expert Panel, *Appeal by Margaret Ferrier MP* (HC, 2022–23, 1400), 22 May 2023, para 2.21.

*62. We consider the following to be aggravating factors:*

*a) Mr Pincher is an experienced Member of the House and was a senior Government Minister and Privy Councillor. As Government Deputy Chief Whip he had responsibility for enforcing party discipline and upholding standards.*

*b) Mr Pincher's behaviour has had a significant impact on the two individuals concerned.*

*c) There was more than one instance of this behaviour on the evening in question.*

*d) Mr Pincher was, by his own admission, heavily intoxicated at the time the conduct took place.*

*e) Mr Pincher's behaviour represented an abuse of power, as he was in a position of authority*

*63. We consider the following to be mitigating factors:*

*a) Mr Pincher has expressed genuine contrition, and in his submission to this Committee has offered an apology to those affected.*

*b) Mr Pincher promptly resigned as a Government Minister and, in doing so, took responsibility for his actions.*

*c) Mr Pincher has cooperated with the Commissioner's investigation.*

2.32 It then set out its conclusion that 8 weeks suspension is the appropriate sanction.

## **Conclusion**

2.33 It is important to emphasise the seriousness with which Parliament approaches cases of this kind. It is worth restating a critical passage from the Panel's Guide for Appellants in Code Cases published in November 2022:

*9) We understand:*

*a) the seriousness of, and the harm caused by, bullying, harassment and sexual misconduct, within the Parliamentary Community which the ICGS seeks to tackle.*

*b) the importance of the Code of Conduct in; building a common understanding of what behaviour and attitudes the House wishes to promote or considers*

*unacceptable; upholding the openness and accountability essential to the proper functioning of a representative democracy; ensuring all Members can and do speak and act without fear or favour; and protecting and enhancing the reputation of the House of Commons so that the public can have justifiable confidence in it.*<sup>5</sup>

- 2.34 We consider the Committee approached this task properly, with the correct considerations in mind, and applying its Members' experience of the House of Commons, fairness and obvious reason to the facts of the case. We consider that the appellant's arguments are misconceived or erroneous. The sanction is far from being arbitrary or disproportionate. This appeal is dismissed and the 8 week suspension stands.

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<sup>5</sup> Independent Expert Panel, *Guidance to Appellants in Code of Conduct Cases*, November 2022, p. 4.

## Appendix: Written appeal submission

### ***Email from Christopher Pincher MP to Sir Stephen Irwin, Chair, Independent Expert Panel, dated 20 July 2023***

Dear Sir Stephen,

Thank you for the email from the Panel Secretary of 6<sup>th</sup> July. I have given the Report a good deal of thought over the last several days and have decided that I would like to appeal the decision of the Committee on Standards in its report of 6<sup>th</sup> July 2023 as its twelfth report. I would like to appeal the recommendation under **Paragraph 24 (b) and 25 (c)** of the Guide to Appellants In Code of Conduct Cases, on the grounds that I believe the sanction of eight week's suspension recommended by the Committee is disproportionate. In doing so I do not wish to show anyone involved in this matter any disrespect.

I would like to provide the following grounds in support of my appeal which I would be grateful if you would consider. I have ordered them first in order of the Report's paragraphs and then second some more general points.

1. I made clear in my original evidence to the Commissioner and in my subsequent submission to the Committee why I attended the event at the Carlton Club. I was there, by invitation to speak to a private event, in my capacity as a Government minister and a supporter of that political group within the Conservative Party. I provided evidence to underline that reason which is in my submission bundle to the Commissioner. I did not attend the meeting to speak or meet its members as a Member of Parliament as stated in the submission by the Commissioner and reported in **Paragraph 22** of the Committee's Report. The event was scheduled for early in the evening at 6.45pm – this was not made specific in my submissions to the Commissioner but the timing is available on the notices. I returned later, after having a private dinner as a private individual, on impulse thinking that though the formal part of the proceedings was over some of my friends might be in the Carlton Club and I would rejoin them. Although I accept that some may think this is a narrow point, I think it is nonetheless important when considering what is public life. I hope the Panel will consider that there are people whose private lives (friends, interests, etc) sometimes conflate with their public life (friendships between MPs and politically interested people, etc.). This can be the case at Westminster. On the whole, and perhaps unhelpfully in many ways for me personally as I alluded in my initial submission to the then Commissioner, my friendships are nearly all political and many



are public. That does not appear to be fully represented in the Committee's findings which in **Paragraph 51** seems to imply that private relationships and friendships between people in public life or with political interests can only ever be public. I do not believe this is always so and I feel the Panel should take this into account when considering whether the sanction is unfair and disproportionate.

2. With respect to **Paragraph 56**, I accepted in my submission to the Commissioner and to the Committee that the coverage last year has hurt my reputation and was used thereafter in media coverage to question the reputation of the then Prime Minister and government. However, I would contend that the overwhelming coverage of those events focused first on me personally and on the then Prime Minister and then government but not primarily on Parliament. Neither in the data collected by the Commissioner, nor in the Report of the Committee, is any evidence of a parliamentary focus of media reporting clearly set out. The focus of the column inches were on me (particularly regarding my personal life including other allegations none of which have been proven against me and some of which are clearly verifiably untrue) and thence on the reputation of the then Prime Minister and the then government, not Parliament or MPs in general. I do not think this is an esoteric point as I feel the Committee has reached a conclusion without specific and quantifiable evidence to support its recommendation. I would respectfully invite you and your Panel to review that coverage. I feel the Panel ought to consider that coverage balance when weighing whether the sanction recommended by the Committee is disproportionate, for I feel the Committee gave it insufficient consideration.
3. With respect to **Paragraph 58**, I would also respectfully contend that the question of whether there is any intention to "abuse that position of power" is not "immaterial". I feel that the Committee ought to have given consideration to the question of intent as well as to the question of whether or not objectively it occurred in weighing its sanction. I did not, as I submitted to the Committee, return with any intent other than to see if any friends were there. There is no suggestion by either the Commissioner in his findings nor the Committee in its Report that I was dishonest in any of this, and I believe that should have been considered by the Committee when deciding the length of proposed suspension.
4. With respect to **Paragraph 59**, I submit that I never thought to act with impunity as an MP or as a minister and as the Committee has noted in **Paragraph 63**, I took responsibility for my actions "promptly" by resigning as a Government minister. I would also like to be clear that I resigned before any media story broke (in a sense

my resignation broke the story) and I also apologised to all concerned, as I did again in my submissions to the Committee. I have also said publicly that I will not seek re-election. I informed the Conservative Party of that intent in early January – I can provide email verification of that should you require it. In my submissions to the Commissioner I made it clear that I meant no disrespect to anyone. I do think the Committee ought to have taken these factors more clearly into account (**Paragraph 63 (a) and (b)**) in deciding its proposed sanction.

5. Throughout the process I have tried to do the right thing and have been open and honest with the Commissioner, beginning with my original submission to the previous Commissioner, stating what I know, or do not know. I have not attempted to mislead or obfuscate, as I believe the Committee has concluded in other cases before it where dishonesty or improper pressure has been found, and I have only raised what I believe to be fair and legitimate questions about witness statements or conclusions. About some of these statements or conclusions I asked the Commissioner to make checks. I have not attempted to block the work of the Commissioner, and although [Redacted: personal information] which caused a little delay (as you will see from the documents in the evidence bundle), during that time I asked my legal representative to keep the Commissioner's office up to date. He did so to ensure there was no concern that I might have stopped engaging with their work. The Commissioner decided himself that he did not need to speak to me. For these reasons I feel the Committee's comment (**Paragraph 63 (c)**) that I have "co operated" with the inquiry does not take sufficient account that I have tried throughout to be straightforward and helpful, and I would be grateful if you would consider this point as I believe it should matter in deciding the level of sanction recommended.
6. Throughout this period, which has been a very difficult one for me, my office has worked hard to ensure a very good standard of service is provided to my constituents and I have tabled a large number of Written Parliamentary Questions and received answers on a range of matters of interest to my constituents. Whilst I understand entirely that the public expect a high standard of conduct amongst MPs, as will the Committee, I feel the length of suspension will have an adverse effect on the ability of my team to provide to my constituents the help and support they need on matters ranging from migration concerns to very local matters such as the closure of the George Bryan Centre (an inpatient mental healthcare facility). I raise this point because of the adverse effect on my constituents and team rather than me personally.
7. The eight week sanction, made without any schedule of tariffs or reference points

known to me nor I believe anyone else, appears to be heavy handed and arbitrary. It would I am sure be helpful in the round for such reference points to be made, but I do feel an arbitrary penalty is unjustifiable given other recent suspension penalties have been significantly lower and in cases where it has been concluded that there was far less co operation with the Commissioner and Committee, where the Committee concluded dishonesty on the part of the respondent or where the respondent was found to have pressurised the Commissioner. I feel it ought to be considered by you whether, given my original submissions and these grounds of appeal, a more proportionate and less arbitrary penalty is appropriate.

I hope that you will feel able to treat these points as legitimate grounds for a reconsideration of the period of suspension proposed. You will, I hope, have seen my initial submission to the former Commissioner which includes some personal considerations, and my submission to the Committee as well as the rest of the evidence bundle. I take this opportunity to again reiterate my apology. I appreciate that this has been a very difficult time for everyone concerned, including my family and myself. I look forward to hearing from you.

Sincerely

**Christopher Pincher**